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5 **UNITED STATES DISTRICT COURT**
6 **SOUTHERN DISTRICT OF CALIFORNIA**
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8 UNITED STATES OF AMERICA, } Case No. 92CR0509-H
9 Plaintiff, }
10 v. } ORDER DENYING DEFENDANT’S
11 ANTHONY ACOSTA, } MOTION FOR EARLY
12 Defendant. } TERMINATION OF SUPERVISED
13 } RELEASE
14 } (Doc. No. 212.)

15 On June 13, 2018, Defendant Anthony Acosta (“Defendant”) filed a motion for
16 early termination of supervised release.¹ (Doc. No. 212.) On June 15, 2018, the Court
17 issued an order re-appointing counsel, permitting defense counsel to file any
18 supplemental briefing in support of the Defendant’s motion by June 29, 2018 and
19 directing the Government to file a response by July 13, 2018. (Doc. No. 213.) As of the
20 date of this order, no supplemental briefing has been filed by defense counsel. On July
21 12, 2018, the Government filed its response in opposition to the Defendant’s motion.
22 (Doc. No. 214.) On July 18, 2018, the Court received a Noncompliance Summary
23 Report from the probation officer reporting that the Defendant had been residing and
24 associating with a convicted felon, the Defendant’s cousin, in violation of the terms and
25 conditions of supervised release. (Exhibit A.) The probation officer also reported that
26 the Defendant’s cousin, whom the Defendant was residing with, was arrested for
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28 ¹ The Court ordered the Defendant’s motion be filed nunc pro tunc to June 5, 2018, the date
the Clerk’s Office received the Defendant’s motion. (Doc. No. 211.)

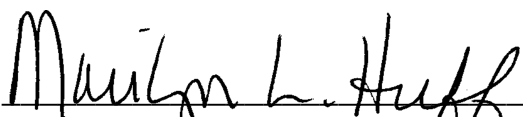
1 unlawful possession of ammunition, possession of a controlled substance, and
2 manufacture, sale, or possession of metal knuckles. (Id.) Nevertheless, the probation
3 officer recommended, and the Court agreed, not to take action at this time. (Id.)

4 When deciding whether to grant a motion for early termination of supervised
5 release, a district court must apply the standards set forth in Title 18 U.S.C. § 3583(e).
6 United States v. Emmett, 749 F.3d 817, 819 (9th Cir. 2014) (“The correct legal standard
7 for deciding a motion to terminate supervised release is set forth in 18 U.S.C. § 3583(e).)
8 Additionally, Title 18 U.S.C. § 3583(e) requires a district court to consider the factors
9 set forth in 18 U.S.C. § 3553(a) in deciding whether to grant or deny a motion to
10 terminate supervised release.

11 After applying the legal standards set forth in Title 18 U.S.C. § 3583(e) and
12 considering the factors set forth in Title 18 U.S.C. § 3553(a), the Court concludes early
13 termination of supervised release is not warranted at this time. Based on the
14 Noncompliance Summary Report from the probation officer reporting that the
15 Defendant had been residing and associating with at least one convicted felon who has
16 been arrested for, among other things, possession of unlawful possession of
17 ammunition, and based on the Defendant’s original conviction of armed bank robbery
18 involving firearms, the Court has a legitimate reason to be concern of the Defendant’s
19 conduct during his term of supervision. The Court concludes that continuing the
20 Defendant on supervised release will comport with the factors set forth in Title 18
21 U.S.C. § 3553(a), including but not limited to deterring the Defendant from future
22 criminal conduct and protecting the public from further crimes of the Defendant.
23 Accordingly, the Court DENIES without prejudice the Defendant’s motion for early
24 termination of supervised release.

25 IT IS SO ORDERED.

26 DATED: July 18, 2018

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28 HONORABLE MARILYN L. HUFF
UNITED STATES DISTRICT JUDGE